

## **REMARKS / ARGUMENTS**

### **I. General Remarks**

Please consider the application in view of the following remarks. Applicants thank the Examiner for her careful consideration of this application.

### **II. Disposition of the Claims**

Claims 1-83 are pending in this application. Claims 84-142 were cancelled in a previous response.

Applicants have not included a listing of claims in this Response because Applicants have not made any claim amendments herein. *See* MANUAL OF PATENT EXAMINING PROCEDURE § 714(II)(C) (2004).

Claims 1-83 stand rejected under 35 U.S.C. § 102(e). Claims 1-83 stand rejected under 35 U.S.C. § 102(a). Claims 1-83 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting. The Examiner also has objected to the specification.

### **III. Amendments to the Specification**

Applicants have amended the first paragraph of the disclosure to correct inadvertent typographical errors in that paragraph. This amendment adds no new matter to the specification. Applicants respectfully request that these amendments be entered.

### **III. Objections to the Abstract**

The Examiner has objected to the abstract of the disclosure because the term “the present invention” is stated in lines 1, 6-7, and 10. (*See* Office Action at ¶ 1.) Applicants have amended the abstract of the disclosure to remove this term. Therefore, Applicants respectfully request that these amendments be entered, and respectfully request the withdrawal of this objection.

### **IV. Rejections of Claims**

#### **A. Rejections of Claims Under 35 U.S.C. § 102(e)**

Claims 1-83 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0228985 by Taylor *et al.* (“US2003/0228985”). With respect to these rejections, the Office Action states:

US2003/0228985 discloses, with respect to all the claims, a method of treating a subterranean formation comprising: providing a gelled liquid hydrocarbon treatment fluid comprising a liquid hydrocarbon and a gelling agent that comprises a polyvalent metal

salt of an organophosphonic acid ester or a polyvalent metal salt of an organophosphinic acid, and treating the subterranean formation with the gelled liquid hydrocarbon treatment fluid. See the entire document, especially paragraphs [0008-0021] and [0023-0057], claims 1-41, and examples 1-12.

(Office Action at ¶ 4.) Applicants respectfully disagree with these rejections.

Specifically, Applicants have properly claimed priority from U.S. Patent Application Serial No. 10/409,240, which claims priority from U.S. Patent Application Serial No. 09/792,165 (“the '165 Application”), the disclosure of which supports the full scope of Applicants’ claims. The '165 Application was filed on February 23, 2001, which falls on the same date as the earliest effective filing date of *US2003/0228985*. Therefore, *US2003/0228985* does not constitute prior art to Applicants’ claims, and Applicants respectfully request the withdrawal of the rejections over this reference.

#### **B. Rejections of Claims Under 35 U.S.C. § 102(a)**

Claims 1-83 stand rejected under 35 U.S.C. § 102(a) as being anticipated by European Patent Application Publication No. EP 1236863 by Taylor *et al.* (“*EP1236863*”). With respect to these rejections, the Office Action states:

EP 1236863 discloses, with respect to all the claims, a method of treating a subterranean formation comprising: providing a gelled liquid hydrocarbon treatment fluid comprising a liquid hydrocarbon and a gelling agent that comprises a polyvalent metal salt of an organophosphonic acid ester or a polyvalent metal salt of an organophosphinic acid, and treating the subterranean formation with the gelled liquid hydrocarbon treatment fluid. See the entire document, especially paragraphs [0001-0035] claims 1-14, and examples 1-10.

(Office Action at ¶ 5.) Applicants respectfully disagree with these rejections.

Specifically, Applicants have properly claimed priority from U.S. Patent Application Serial No. 10/409,240, which claims priority from U.S. Patent Application Serial No. 09/792,165 (“the '165 Application”), the disclosure of which supports the full scope of Applicants’ claims. The '165 Application was filed on February 23, 2001, which is before the publication date of *EP1236863* (September 4, 2002). Therefore, *EP1236863* does not constitute prior art to Applicants’ claims, and Applicants respectfully request the withdrawal of the rejections over this reference.

**C. Provisional Double Patenting Rejections**

Claims 1-83 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-14 and 38-68 of copending U.S. Patent Application Serial No. 10/409,240 (“the '240 Application”), claims 1-32 of copending U.S. Patent Application Serial No. 10/787,363 (“the '363 Application”), and claims 1-105 of copending U.S. Patent Application Serial No. 10/839,433 (“the '433 Application”).

Applicants have submitted herewith appropriate terminal disclaimers in compliance with 37 C.F.R. § 1.321 disclaiming the appropriate term(s). Accordingly, Applicants respectfully submit that the provisional double patenting rejections have been overcome, and respectfully request the withdrawal of these rejections.

**V. No Waiver**

All of Applicants’ arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art. The example distinctions discussed by Applicants are sufficient to overcome the double patenting and anticipation rejections.

**SUMMARY**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

The Commissioner is hereby authorized to debit the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300 in the amount of \$390.00 for the fees for the three (3) terminal disclaimers under 37 C.F.R. § 1.20(d). Should the Commissioner deem that any additional fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300.

Respectfully submitted,



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